

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ROBERT J. LARRY, 3:09-CV-663-AC

Plaintiff, ORDER

v.

ERIC NISLEY, in his  
individual capacity, et al.,

Defendants.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#161) on October 21, 2011, in which he recommends the Court grant Defendant Eric Nisley's Motion (#50) for Summary Judgment as to Plaintiff's 42 U.S.C. § 1983, 42 U.S.C. § 1985, assault, and breach-of-fiduciary-duty claims on the ground that Plaintiff failed to plead facts sufficient to state any such

claims. The Magistrate Judge also recommends the Court deny Defendant's Motion as to Plaintiff's claims for defamation and intentional infliction of emotional distress because Plaintiff has demonstrated disputes of material fact exist and preclude summary judgment as to those claims.

Defendant filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

This Court has carefully considered each of Defendant's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#161) and, accordingly, **GRANTS** Defendant's Motion (#50) for Summary Judgment as to Plaintiff's 42 U.S.C. § 1983, 42

U.S.C. § 1985, assault, and breach-of-fiduciary-duty claims and **DENIES** Defendant's Motion as to Plaintiff's claims for defamation and intentional infliction of emotional distress.

IT IS SO ORDERED.

DATED this 6<sup>th</sup> day of February, 2012.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge